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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,514	08/23/2001	Martin W. McKinnon III	10263-35430	9171
5642	7590	11/16/2005	EXAMINER	
SCIENTIFIC-ATLANTA, INC. INTELLECTUAL PROPERTY DEPARTMENT 5030 SUGARLOAF PARKWAY LAWRENCEVILLE, GA 30044			CHANG, RICHARD	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/935,514	MCKINNON ET AL.
	Examiner Richard Chang	Art Unit 2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 September 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-51 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-34 and 44-51 is/are rejected.  
 7) Claim(s) 35-43 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Amendment***

1. Applicant's arguments and amendments, filed on 9/1/2005, with respect to claims 1-51 have been fully considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-34 and 44-51 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by US patent No. 6,477,144 B1 ("Morris et al.").

Regarding Claim 1, Morris et al. teach a method of providing network access across a shared communications medium between at least four competing users (class a..d), with at least a first pair of users being grouped within a first class (class a) and at least a second pair of different users being grouped within a second class (class b), comprising the steps of:

(a) determining class and user allowances of network access for a first time interval by allocating network access to each user class for a first future time interval

and, for each user class, allocating network access to each user within the class for the first time interval,

(b) providing network access to each user during the first time interval such that no user receives more network access than that user's allowance and no class receives more collective network access than that class' network allowance,

(c) determining class and user allowances of network access for a second time interval by allocating network access to each user class for a second future time interval succeeding the first time interval and, for each user class, allocating network access to each user for the second time interval, the allocated network access for the second time interval for at least one user differing from that user's allocated network access for the first time interval, and

(d) providing network access to each user during the second time interval such that no user receives more network access than that user's allowance and no class receives more collective network access than that class' allowance,

wherein the scheduler scans (monitor) all the traffic classes in every time interval using the priority base scheme at the same time (See Fig. 2, Col. 1, lines 15-60).

Regarding claim 2, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 3, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 4, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 5, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 6, this claim has limitations that is similar to those of claim 5, thus it is rejected with the same rationale applied against claim 5 above.

Regarding claim 7, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 8, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 9, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 10, this claim has limitations that is similar to those of claim 9, thus it is rejected with the same rationale applied against claim 9 above.

Regarding claim 11, this claim has limitations that is similar to those of claim 9, thus it is rejected with the same rationale applied against claim 9 above.

Regarding claim 12, this claim has limitations that is similar to those of claim 9, thus it is rejected with the same rationale applied against claim 9 above.

Regarding claim 13, this claim has limitations that is similar to those of claim 9, thus it is rejected with the same rationale applied against claim 9 above.

Regarding claim 14, this claim has limitations that is similar to those of claim 9, thus it is rejected with the same rationale applied against claim 9 above.

Regarding claim 15, this claim has limitations that is similar to those of claim 9, thus it is rejected with the same rationale applied against claim 9 above.

Regarding claim 16, this claim has limitations that is similar to those of claim 9, thus it is rejected with the same rationale applied against claim 9 above.

Regarding claim 17, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 18, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 19, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 20, this claim has limitations that is similar to those of claim 19, thus it is rejected with the same rationale applied against claim 19 above.

Regarding claim 21, this claim has limitations that is similar to those of claim 19, thus it is rejected with the same rationale applied against claim 19 above.

Regarding claim 22, this claim has limitations that is similar to those of claim 21, thus it is rejected with the same rationale applied against claim 21 above.

Regarding claim 23, this claim has limitations that is similar to those of claim 21, thus it is rejected with the same rationale applied against claim 21 above.

Regarding claim 24, this claim has limitations that is similar to those of claim 21, thus it is rejected with the same rationale applied against claim 21 above.

Regarding claim 25, this claim has limitations that is similar to those of claim 21, thus it is rejected with the same rationale applied against claim 21 above.

Regarding claim 26, this claim has limitations that is similar to those of claim 21, thus it is rejected with the same rationale applied against claim 21 above.

Regarding claim 27, this claim has limitations that is similar to those of claim 19, thus it is rejected with the same rationale applied against claim 19 above.

Regarding claim 28, this claim has limitations that is similar to those of claim 27, thus it is rejected with the same rationale applied against claim 27 above.

Regarding claim 29, this claim has limitations that is similar to those of claim 28, thus it is rejected with the same rationale applied against claim 28 above.

Regarding claim 30, this claim has limitations that is similar to those of claim 28, thus it is rejected with the same rationale applied against claim 28 above.

Regarding claim 31, this claim has limitations that is similar to those of claim 28, thus it is rejected with the same rationale applied against claim 28 above.

Regarding claim 32, this claim has limitations that is similar to those of claim 28, thus it is rejected with the same rationale applied against claim 28 above.

Regarding claim 33, this claim has limitations that is similar to those of claim 28, thus it is rejected with the same rationale applied against claim 28 above.

Regarding claim 34, this claim has limitations that is similar to those of claim 28, thus it is rejected with the same rationale applied against claim 28 above.

Regarding claim 44, this claim has limitations that is similar to those of claim 19, thus it is rejected with the same rationale applied against claim 19 above.

Regarding claim 45, this claim has limitations that is similar to those of claim 44, thus it is rejected with the same rationale applied against claim 44 above.

Regarding claim 46, this claim has limitations that is similar to those of claim 45, thus it is rejected with the same rationale applied against claim 45 above.

Regarding claim 47, this claim has limitations that is similar to those of claim 45, thus it is rejected with the same rationale applied against claim 45 above.

Regarding claim 48, this claim has limitations that is similar to those of claim 45, thus it is rejected with the same rationale applied against claim 45 above.

Regarding claim 49, this claim has limitations that is similar to those of claim 45, thus it is rejected with the same rationale applied against claim 45 above.

Regarding claim 50, this claim has limitations that is similar to those of claim 45, thus it is rejected with the same rationale applied against claim 45 above.

Regarding claim 51, this claim has limitations that is similar to those of claim 45, thus it is rejected with the same rationale applied against claim 45 above.

#### ***Allowable Subject Matter***

4. Claims 35-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if no art rejection can be applied.

#### ***Reason for indicating Allowable Subject Matter***

5. The following is a statement of reasons for the indication of allowable subject matter: The prior art along or in combination fails to teach or make obvious the following limitations:

"the step of forecasting collective network access usage by each user class during a future time interval based on said step of monitoring network access usage by each user" as recited in the dependent claim 35.

### **Conclusion**

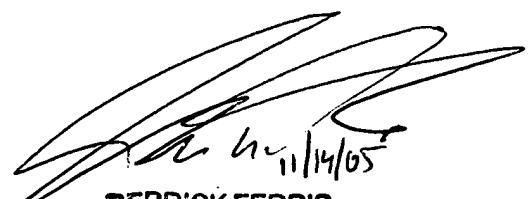
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Chang whose telephone number is (571) 272-3129. The examiner can normally be reached on Monday - Friday from 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*RKC*  
rkc

Richard Chang  
Patent Examiner  
Art Unit 2663



11/14/05  
**DERRICK FERRIS**  
**PATENT EXAMINER**